

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

HOUSE BILL 657

46TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2003

INTRODUCED BY

William "Ed" Boykin

AN ACT

RELATING TO EDUCATIONAL RETIREMENT; AMENDING THE EDUCATIONAL
RETIREMENT ACT TO ALLOW PROVISIONAL MEMBERS TO ACQUIRE EARNED
SERVICE CREDIT FOR CERTAIN PERIODS OF EMPLOYMENT.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. Section 22-11-17 NMSA 1978 (being Laws 1967,
Chapter 16, Section 141, as amended) is amended to read:

"22-11-17. PROVISIONAL MEMBERSHIP. --

A. A provisional member shall be covered by the
provisions of the Educational Retirement Act but shall have the
option to exempt himself from its coverage. A provisional
member exempting himself from the provisions of the Educational
Retirement Act shall not be entitled to the benefits or
coverage under any other state retirement program except as
otherwise provided in this section. This section shall not

underscored material = new
[bracketed material] = delete

1 affect any rights a provisional member may have under the
2 provisions of the federal Social Security Act. This option to
3 exempt must be exercised within one year of employment
4 according to the regulations adopted by the board. Any
5 provisional member exempting himself pursuant to this section
6 shall be entitled to a refund of any contributions made
7 pursuant to the Educational Retirement Act prior to the
8 exercise of the exemption.

9 B. A provisional member not exempt from the
10 coverage of the Educational Retirement Act shall have the right
11 to earned service-credit for periods of employment subsequent
12 to July 1, 1957 and prior to July 1, 1961, provided that all
13 contributions at the rates in effect during that period of
14 employment are paid. If a provisional member chooses to make
15 the contributions for that period, the local administrative
16 unit employing a member during that period shall pay the
17 employer's contribution at the rate in effect during that
18 period of employment. Contributions prior to July 1, 1961 by
19 both the provisional member and the local administrative unit
20 shall bear interest at the rate of three percent a year from
21 July 1, 1961 until paid.

22 C. A provisional member exempt from the coverage of
23 the provisions of the Educational Retirement Act shall have the
24 right to revoke the exemption at any time; however, within the
25 first two weeks following the beginning of each school year,

. 144053. 1

underscored material = new
[bracketed material] = delete

1 such provisional member shall be informed by the local
2 administrative unit in writing of his right to revoke the
3 exemption and shall sign a statement to the effect that he does
4 or does not wish to revoke the exemption. A copy of such
5 statement shall be kept in the personnel file of the
6 provisional member.

7 D. A provisional member who revokes the exemption
8 from coverage may, at any time before June 30, 2006, acquire
9 earned service credit for periods of employment during which
10 the exemption or exemptions were in force if both the member
11 contributions and the local administrative unit contributions,
12 at the rates in effect during the periods of employment and
13 applied to the earnings of the member during those periods, are
14 paid to the fund, together with interest at the actuarial rate
15 set by the board. The contributions shall be paid in the
16 following manner:

17 (1) both the member contributions and the
18 local administrative unit contributions, together with
19 interest, shall be paid by the member; or

20 (2) if the member tenders payment of the
21 member contributions, with interest, the local administrative
22 unit by whom the member was employed may, but shall not be
23 obligated to, pay the local administrative unit contributions,
24 with interest.

25 [~~D.~~] E. A provisional member employed by the board,

underscored material = new
[bracketed material] = delete

1 the department of education, the New Mexico school for the
2 deaf, the northern New Mexico state school, the New Mexico
3 school for the visually handicapped, the New Mexico girls'
4 school, the New Mexico boys' school or the Los Lunas [~~mental~~
5 ~~hospital~~] medical center shall have the option of qualifying
6 for coverage under either the Educational Retirement Act or the
7 public employees retirement association of New Mexico. This
8 option shall be exercised by filing a written election with
9 both the educational retirement director and the [~~director~~
10 executive secretary of the public employees retirement
11 association of New Mexico. This election shall be made within
12 six months after employment and shall be irrevocable regardless
13 of subsequent employment or reemployment in any administrative
14 unit enumerated in this subsection. Until this election is
15 made, the provisional member shall be covered and shall be
16 required to make contributions under the Educational Retirement
17 Act. "

18 Section 2. Section 22-11-21.3 NMSA 1978 (being Laws 1998,
19 Chapter 38, Section 1) is amended to read:

20 "22-11-21.3. PICK UP--ROLLOVER. --

21 A. Commencing on July 1, 1998, each local
22 administrative unit may, solely for the purpose of compliance
23 with Section 414(h) of the Internal Revenue Code of 1986, pick
24 up, for the purposes specified in that section, member
25 contributions permitted by Subsection D of Section 22-11-17

. 144053. 1

underscored material = new
[bracketed material] = delete

1 NMSA 1978; Subsection C of Section 22-11-33 NMSA 1978; or
2 Paragraph (4) of Subsection A of Section 22-11-34 NMSA 1978.
3 Member contributions picked up under the provisions of this
4 subsection shall be treated as local administrative unit
5 contributions for purposes of determining income tax
6 obligations under the Internal Revenue Code of 1986; however,
7 such picked-up member contributions shall be included in the
8 determination of the member's gross annual salary for all other
9 purposes under federal and state laws. Member contributions
10 picked up under this section shall continue to be designated
11 member contributions for all purposes of the Educational
12 Retirement Act and shall be considered as part of the member's
13 annual salary for purposes of determining the amount of the
14 member's contribution. The provisions of this section are
15 voluntary, and the member shall have no option concerning the
16 pick up to receive the contributed amounts directly instead of
17 having them paid by the local administrative unit to the fund.
18 The contribution may be paid through the local administrative
19 unit's payroll deduction.

20 B. Commencing July 1, 1998, the [~~educational~~
21 ~~retirement~~] board may accept rollover contributions from other
22 retirement funds solely for and subject to the restrictions set
23 forth in Section 22-11-17 NMSA 1978 and Subsection B of Section
24 22-11-34 NMSA 1978 and the applicable restrictions set forth in
25 the Internal Revenue Code of 1986 for pension plan

. 144053. 1

underscored material = new
~~[bracketed material] = delete~~

- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19
- 20
- 21
- 22
- 23
- 24
- 25

qual i f i c a t i o n. "